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**HOUSE BILL 99**

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

**INTRODUCED BY**

**Miguel P. Garcia**

**AN ACT**

**RELATING TO LICENSURE; PROVIDING FOR SEPARATE RULE PROMULGATION  
FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS;  
EXPANDING POWERS AND DUTIES OF THE BOARD; CHANGING QUORUM  
REQUIREMENTS; AMENDING LICENSURE REQUIREMENTS.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. Section 61-23-3 NMSA 1978 (being Laws 1987,  
Chapter 336, Section 3, as amended) is amended to read:**

**"61-23-3. DEFINITIONS. --As used in the Engineering and  
Surveying Practice Act:**

- A. "approved" or "approval" means acceptable to the  
board;**
- B. "board" means the state board of licensure for  
professional engineers and professional surveyors;**
- C. "conviction" or "convicted" means any final**

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1 adjudication of guilt, whether pursuant to a plea of nolo  
2 contendere or otherwise and whether or not the sentence is  
3 deferred or suspended;

4 D. "engineer" means a person who is qualified to  
5 practice engineering by reason of his intensive preparation and  
6 knowledge in the use of mathematics, chemistry, physics and  
7 engineering sciences, including the principles and methods of  
8 engineering analysis and design acquired by professional  
9 education and engineering experience;

10 E. "engineering", [or] "practice of engineering" or  
11 "engineering practice" means any creative or engineering work  
12 that requires engineering education, training and experience in  
13 the application of special knowledge of the mathematical,  
14 physical and engineering sciences to such creative work as  
15 consultation, investigation, forensic investigation,  
16 evaluation, planning and design of engineering works and  
17 systems, expert technical testimony, engineering studies and  
18 the review of construction for the purpose of assuring  
19 substantial compliance with drawings and specifications; any of  
20 which embrace such creative work, either public or private, in  
21 connection with any utilities, structures, buildings, machines,  
22 equipment, processes, work systems, projects and industrial or  
23 consumer products or equipment of a mechanical, electrical,  
24 hydraulic, chemical, pneumatic, environmental or thermal  
25 nature, insofar as they involve safeguarding life, health or

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1 property, and including such other professional services as may  
2 be necessary to the planning, progress and completion of any  
3 engineering work. The "practice of engineering" may include  
4 the use of photogrammetric methods to derive topographical and  
5 other data. The "practice of engineering" does not include  
6 responsibility for the supervision of construction, site  
7 conditions, operations, equipment, personnel or the maintenance  
8 of safety in the work place;

9 F. "engineering committee" means a committee of the  
10 board entrusted to implement all business of the Engineering  
11 and Surveying Practice Act as it pertains to the practice of  
12 engineering, including the promulgation and adoption of rules  
13 of professional responsibility for professional engineers  
14 exclusive to the practice of engineering;

15 G. "engineer intern" means a person who has  
16 qualified for, taken and passed an examination in the  
17 fundamental engineering subjects as provided in the Engineering  
18 and Surveying Practice Act;

19 H. "fund" means the professional engineers' and  
20 surveyors' fund;

21 I. "incidental practice" means the performance of  
22 other professional services that are related to a licensee's  
23 work as an engineer;

24 J. "person" means an individual, corporation,  
25 business trust, estate, trust, partnership, limited liability

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1 company, association, joint venture or any legal or commercial  
2 entity;

3 K. "professional development" means education by a  
4 licensee in order to maintain, improve or expand skills and  
5 knowledge obtained prior to initial licensure or to develop new  
6 and relevant skills and knowledge;

7 L. "professional engineer", "consulting engineer",  
8 "licensed engineer" or "registered engineer" means a person who  
9 is licensed by the board to practice the profession of  
10 engineering;

11 M "responsible charge" means responsibility for  
12 the direction, control and supervision of engineering or  
13 surveying work, as the case may be, to assure that the work  
14 product has been critically examined and evaluated for  
15 compliance with appropriate professional standards by a  
16 licensee in that profession, and by sealing or signing the  
17 documents, the professional engineer or professional surveyor  
18 accepts responsibility for the engineering or surveying work,  
19 respectively, represented by the documents and that applicable  
20 engineering or surveying standards have been met;

21 N. "surveying", ~~[or]~~ "practice of surveying" or  
22 "surveying practice" means any service or work, the substantial  
23 performance of which involves the application of the principles  
24 of mathematics and the related physical and applied sciences  
25 for:

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1 (1) the measuring and locating of lines,  
2 angles, elevations and natural and man-made features in the  
3 air, on the surface of the earth, within underground workings  
4 and on the beds or bodies of water for the purpose of defining  
5 location, areas and volumes;

6 (2) the monumenting of property boundaries and  
7 for the platting and layout of lands and subdivisions  
8 [~~thereof~~];

9 (3) the application of photogrammetric methods  
10 used to derive topographic and other data;

11 (4) the establishment of horizontal and  
12 vertical controls [~~for surveys for design, topographic surveys,~~  
13 ~~including photogrammetric methods, construction surveys of~~  
14 ~~engineering and architectural public works projects]~~ that will  
15 be the basis for all geospatial data used for future design  
16 surveys, including construction staking surveys, surveys to lay  
17 out horizontal and vertical alignments, topographic surveys,  
18 control surveys for aerial photography for the collection of  
19 topographic and planimetric data using photogrammetric methods,  
20 construction surveys of engineering and architectural public  
21 works projects; and

22 (5) the preparation and perpetuation of maps,  
23 records, plats, field notes and property descriptions;

24 0. "surveying committee" means a committee of the  
25 board entrusted to implement all business of the Engineering

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1 and Surveying Practice Act as it pertains to the practice of  
2 surveying, including the promulgation and adoption of rules of  
3 professional responsibility for professional surveyors  
4 exclusive to the practice of surveying;

5 P. "surveyor" or "professional surveyor" means a  
6 person who is qualified to practice surveying by reason of his  
7 intensive preparation and knowledge in the use of mathematics,  
8 physical and applied sciences and surveying, including the  
9 principles and methods of surveying acquired by education and  
10 experience, and who is licensed by the board to practice  
11 surveying;

12 Q. "surveyor intern" means a person who has  
13 qualified for, taken and passed an examination in the  
14 fundamentals of surveying subjects as provided in the  
15 Engineering and Surveying Practice Act; ~~[and]~~

16 R. "surveying work" means the work performed in the  
17 practice of surveying; and

18 S. "supplemental surveying work" means surveying  
19 work performed in order to densify, augment and enhance  
20 previously performed survey work or site information but  
21 excludes the surveying of real property for the establishment  
22 of land boundaries, rights of way, easements and the dependent  
23 or independent surveys or resurveys of the public land system.

24 The board shall recognize that there may be ~~[an overlap~~  
25 ~~between the work of engineers and surveyors in obtaining]~~

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1 occasions when professional engineers need to obtain  
2 supplemental survey information for the planning and design of  
3 an engineering project. A ~~[registered]~~ licensed professional  
4 engineer who has primary engineering responsibility and control  
5 of an engineering project may perform ~~[an engineering survey.~~  
6 ~~Engineering surveys]~~ supplemental surveying work in obtaining  
7 data incidental to that project. Supplemental surveying work  
8 may be performed by a licensed professional engineer only on a  
9 project for which ~~[he]~~ the engineer is providing engineering  
10 design services. ~~[Engineering surveys include topographic~~  
11 ~~surveying activities required to support the sound conception,~~  
12 ~~planning, design, construction, maintenance and operation of~~  
13 ~~said projects but exclude the surveying of real property for~~  
14 ~~establishment of land boundaries, rights of way, easements and~~  
15 ~~the dependent or independent surveys or resurveys of the public~~  
16 ~~land system.]"~~

17 Section 2. Section 61-23-5 NMSA 1978 (being Laws 1987,  
18 Chapter 336, Section 5, as amended) is amended to read:

19 "61-23-5. STATE BOARD OF LICENSURE FOR PROFESSIONAL  
20 ENGINEERS AND PROFESSIONAL SURVEYORS- - MEMBERS- - TERMS. - -

21 A. There is created the "state board of licensure  
22 for professional engineers and professional surveyors" ~~[which]~~  
23 that shall consist of five licensed professional engineers, at  
24 least one of whom shall be in engineering education, three  
25 licensed professional surveyors and two public members.

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1           B. The members of the board shall be appointed by  
2 the governor for staggered terms of five years. The appointees  
3 shall have the qualifications required by Section 61-23-6 NMSA  
4 1978. The appointments shall be made in such a manner that the  
5 terms of not more than two members expire in each year. Each  
6 member of the board shall receive a certificate of appointment  
7 from the governor. Before the beginning of the term of office,  
8 the appointee shall file with the secretary of state a written  
9 oath or affirmation for the faithful discharge of official  
10 duty. A member of the board may be reappointed but may not  
11 serve more than two consecutive full terms. A member shall not  
12 be reappointed to the board for at least two years after  
13 serving two consecutive full terms. The board may designate  
14 any former board member to assist it in an advisory capacity.

15           C. Each member may hold office until the expiration  
16 of the term for which appointed or until a successor has been  
17 duly qualified and appointed. In the event of a vacancy for  
18 any cause that results in an unexpired term, if not filled  
19 within three months by official action, the board may appoint a  
20 provisional member to serve until the governor acts. Vacancies  
21 on the board shall be filled by appointment by the governor for  
22 the balance of the unexpired term "

23           Section 3. Section 61-23-6 NMSA 1978 (being Laws 1987,  
24 Chapter 336, Section 6, as amended) is amended to read:

25           "61-23-6. BOARD MEMBERS--QUALIFICATIONS.--

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1           A. Each engineer member of the board shall be a  
2 citizen of the United States and a resident of New Mexico.  
3 Each shall have been engaged in the lawful practice of  
4 engineering as a professional engineer for at least ten years,  
5 including responsible charge of engineering projects for at  
6 least five years as a professional engineer licensed in New  
7 Mexico, or engaged in engineering education for at least ten  
8 years, including responsible charge of engineering education  
9 for at least five years, and shall be a professional engineer  
10 licensed in New Mexico.

11           B. Each surveyor member of the board shall be a  
12 citizen of the United States and a resident of New Mexico.  
13 Each shall have been engaged in the lawful practice of  
14 surveying as a professional surveyor for at least ten years,  
15 including responsible charge of surveying projects for at least  
16 five years [~~and shall be~~] as a professional surveyor licensed  
17 in New Mexico.

18           C. Each public member shall be a citizen of the  
19 United States, a resident of New Mexico, shall not have been  
20 licensed nor be qualified for licensure as an engineer,  
21 surveyor, architect or landscape architect and shall not have  
22 any significant financial interest, direct or indirect, in the  
23 professions regulated. "

24           Section 4. Section 61-23-9 NMSA 1978 (being Laws 1987,  
25 Chapter 336, Section 9, as amended) is amended to read:

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1 "61-23-9. BOARD- - ORGANIZATION- - MEETINGS. - -

2 A. There shall be an "engineering committee"  
3 composed of the five members of the board who serve as licensed  
4 professional engineers and one of the public members, who shall  
5 be appointed to the committee by the board. The engineering  
6 committee shall meet in conjunction with all board meetings.  
7 The bylaws or rules of the board shall provide a procedure for  
8 giving notice of all meetings and for holding special and  
9 emergency meetings. A quorum of the committee shall be a  
10 majority of the committee. In the event of a lack of a quorum  
11 and at the request of the committee, other board members may be  
12 substituted for a non-attending member in order to have a  
13 quorum. The committee shall elect a [~~chairman~~] chair and vice  
14 [~~chairman~~] chair from the committee members at the last  
15 committee meeting prior to July 1 of each year.

16 B. There shall be a "surveying committee" composed  
17 of the three members of the board who serve as licensed  
18 professional surveyors and one of the public members, who shall  
19 be appointed to the committee by the board. The surveying  
20 committee shall meet in conjunction with all board meetings.  
21 The bylaws or rules of the board shall provide a procedure for  
22 giving notice of all meetings and for holding special and  
23 emergency meetings. A quorum of the committee shall be a  
24 majority of the committee. In the event of a lack of a quorum  
25 and at the request of the committee, other [~~qualified~~] board

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1 members may serve on this committee. The committee shall elect  
2 a [~~chairman~~] chair and vice [~~chairman~~] chair from the committee  
3 members at the last committee meeting prior to July 1 of each  
4 year.

5 C. All matters that come before the board that  
6 pertain exclusively to engineering or exclusively to surveying  
7 shall be referred to the respective committee for disposition.  
8 The committee action on such matters shall be the action of the  
9 board. Committee actions shall be reported to the board.

10 D. There shall be a joint engineering and surveying  
11 standing committee of the board composed of two members from  
12 the professional engineering committee, the public member and  
13 the chair, and two members from the professional surveying  
14 committee, the public member and the chair. If the public  
15 member is currently the chair of either committee, the vice  
16 chair will serve as the professional member on the standing  
17 committee.

18 [~~D.~~] E. The board shall hold at least four regular  
19 meetings each year. At least one meeting shall be held at the  
20 state capitol. The bylaws or rules of the board shall provide  
21 procedures for giving notice of all meetings and for holding  
22 special meetings. The board shall elect annually a [~~chairman~~]  
23 chair, a vice [~~chairman~~] chair and a secretary, who shall be  
24 members of the board. [~~No~~] A member of the board shall not be  
25 elected to the same office for more than two consecutive [~~full~~

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1 ~~terms]~~ years. A quorum of the board shall be a majority of the  
2 board. Any board member failing to attend three consecutive  
3 regular meetings is automatically removed as a member of the  
4 board. The board shall have an official seal."

5 Section 5. Section 61-23-10 NMSA 1978 (being Laws 1987,  
6 Chapter 336, Section 10, as amended) is amended to read:

7 "61-23-10. DUTIES AND POWERS OF THE BOARD. --

8 A. It shall be the duty of the board to administer  
9 the provisions of the Engineering and Surveying Practice Act  
10 and to exercise the authority granted the board in that act.  
11 The board is the sole state agency with the power to certify  
12 the qualifications of professional engineers and professional  
13 surveyors. The board is authorized to engage such personnel,  
14 including an executive director, as it may deem necessary.

15 B. The board shall have the power to adopt and  
16 amend all bylaws and rules of procedure consistent with the  
17 constitution and the laws of this state that may be reasonable  
18 for the proper performance of its duties and the regulation of  
19 its procedures, meeting records, examinations and the conduct  
20 thereof. The board shall adopt and promulgate rules of  
21 professional responsibility for professional engineers and  
22 professional surveyors that are not exclusive to the practice  
23 of engineering or exclusive to the practice of surveying. All  
24 such bylaws and rules shall be binding upon all persons  
25 licensed pursuant to the Engineering and Surveying Practice

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1 Act.

2 C. The professional engineering committee shall  
3 adopt and promulgate rules of professional responsibility  
4 exclusive to the practice of engineering. All such bylaws and  
5 rules shall be binding upon all persons licensed pursuant to  
6 the Engineering and Surveying Practice Act.

7 D. The professional surveying committee shall adopt  
8 and promulgate rules of professional responsibility exclusive  
9 to the practice of surveying. All such bylaws and rules shall  
10 be binding upon all persons licensed pursuant to the  
11 Engineering and Surveying Practice Act.

12 E. The joint engineering and surveying standing  
13 committee shall have the exclusive authority over practice  
14 disputes between engineers and surveyors to determine if any  
15 proposed rules of professional responsibility are exclusive to  
16 the practice of engineering or exclusive to the practice of  
17 surveying so that rulemaking authority is delegated to the  
18 engineering committee or to the surveying committee.  
19 Determination of exclusive practice of engineering or surveying  
20 requires an affirmative vote by no less than three members of  
21 the committee.

22 [~~C.~~] F. To effect the provisions of the Engineering  
23 and Surveying Practice Act, the board may, under the  
24 [~~chairperson's~~] chair's hand and the board's seal, subpoena  
25 witnesses and compel the production of books, papers and

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1 documents in any disciplinary action against a licensee or a  
2 person practicing or offering to practice without licensure.  
3 Any member of the board may administer oaths or affirmations to  
4 witnesses appearing before the board. If any person refuses to  
5 obey any subpoena so issued or refuses to testify or produce  
6 any books, papers or documents, the board may apply to a court  
7 of competent jurisdiction for an order to compel the requisite  
8 action. If any person willfully fails to comply with such an  
9 order, that person may be held in contempt of court.

10 ~~[D.]~~ G. The board may apply for injunctive relief  
11 to enforce the provisions of the Engineering and Surveying  
12 Practice Act or to restrain any violation of that act. The  
13 members of the board shall not be personally liable under this  
14 proceeding.

15 ~~[E.]~~ H. The board may subject an applicant for  
16 licensure to such examinations as it deems necessary to  
17 determine ~~[his]~~ the applicant's qualifications.

18 ~~[F.]~~ I. The board shall create enforcement advisory  
19 committees composed of licensees as necessary. Each committee  
20 shall include at least four licensees in the same category as  
21 the respondent. An engineering enforcement advisory committee  
22 shall have at least one licensee in the same branch as the  
23 respondent. Enforcement advisory committees shall provide  
24 technical assistance to the board and its staff. The board  
25 shall select members from a list of volunteers submitting their

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1 resumes and letters of interest.

2 [G-] J. No action or other legal proceedings for  
3 damages shall be instituted against the board, any board member  
4 or an agent, an employee or a member of an advisory committee  
5 of the board for any act done in good faith and in the intended  
6 performance of any power or duty granted pursuant to the  
7 Engineering and Surveying Practice Act or for any neglect or  
8 default in the good faith performance or exercise of any such  
9 power or duty.

10 [H-] K. The board, in cooperation with the board of  
11 examiners for architects and the board of landscape architects,  
12 shall create a joint standing committee to be known as the  
13 "joint practice committee". In order to safeguard life, health  
14 and property and to promote the public welfare, the committee  
15 shall have as its purpose the promotion and development of the  
16 highest professional standards in design, planning and  
17 construction and the resolution of ambiguities concerning the  
18 professions. The composition of the committee and its powers  
19 and duties shall be in accordance with identical resolutions  
20 adopted by each board.

21 [I-] L. As used in the Engineering and Surveying  
22 Practice Act, "incidental practice" shall be defined by  
23 identical [~~regulations~~] rules of the board and the board of  
24 examiners for architects. "

25 Section 6. Section 61-23-14 NMSA 1978 (being Laws 1993,  
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1 Chapter 218, Section 11, as amended) is amended to read:

2 "61-23-14. CERTIFICATION AS AN ENGINEER INTERN--  
3 REQUIREMENTS. --

4 A. An applicant for certification as an engineer  
5 intern shall file the appropriate application that demonstrates  
6 that ~~[he]~~ the applicant:

7 (1) is of good moral character and reputation;

8 (2) has obtained at least a senior status in a  
9 board-approved, four-year curriculum in engineering or in a  
10 board-approved, four-year curriculum in engineering technology  
11 that is accredited by the technical accreditation commission of  
12 the accreditation board for engineering and technology; and

13 (3) has three references, one of whom shall be  
14 a licensed professional engineer.

15 B. After acceptance of the application by the  
16 board, the applicant shall be allowed to take the appropriate  
17 examination for certification as an engineer intern. ~~[An~~  
18 ~~applicant who has made three unsuccessful attempts at achieving~~  
19 ~~a passing score on the examination shall be eligible to take~~  
20 ~~the examination only after waiting a calendar year.~~  
21 ~~Thereafter, the applicant may take the examination no more than~~  
22 ~~once each calendar year.]~~

23 C. An applicant may be certified as an engineer  
24 intern upon successfully completing the examination, provided  
25 that ~~[he]~~ the applicant has:

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1 (1) graduated from a board-approved, four-year  
2 engineering curriculum; or

3 (2) graduated from a board-approved, four-year  
4 engineering technology program accredited by the technical  
5 accreditation commission of the accreditation board for  
6 engineering and technology, augmented by at least two years of  
7 board-approved, post-graduate engineering experience.

8 D. The certification as engineer intern does not  
9 permit the intern to practice as a professional engineer.  
10 Certification as an engineer intern is intended to demonstrate  
11 that the intern has obtained certain skills in engineering  
12 fundamentals and is pursuing a career in engineering. "

13 Section 7. Section 61-23-14.1 NMSA 1978 (being Laws 1993,  
14 Chapter 218, Section 12, as amended) is amended to read:

15 "61-23-14.1. LICENSURE AS A PROFESSIONAL ENGINEER--  
16 REQUIREMENTS. --

17 A. Licensure as a professional engineer may be  
18 either through examination or through endorsement or comity.  
19 In either case, an applicant shall file the appropriate  
20 application in which it shall be demonstrated that the  
21 applicant:

22 (1) is of good moral character and reputation;  
23 (2) has five references, three of whom shall  
24 be licensees practicing in the branch of engineering for which  
25 the applicant is applying and who have personal knowledge of

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1 the applicant's engineering experience and reputation. The use  
2 of nonlicensed engineer references having personal knowledge of  
3 the applicant's engineering experience and reputation other  
4 than professional engineers may be accepted by the board;  
5 provided a satisfactory written explanation is given and the  
6 applicant meets one of the following requirements:

7 (a) is certified as an engineer intern  
8 and has at least four years of board-approved engineering  
9 experience after graduation from a board-approved engineering  
10 curriculum;

11 (b) is certified as an engineer intern,  
12 and has, including the two years for engineer intern  
13 certification, at least six years of board-approved engineering  
14 experience after graduation from a board-approved, four-year  
15 engineering technology curriculum accredited by the technical  
16 accreditation commission of the accreditation board for  
17 engineering and technology;

18 (c) has obtained a doctorate degree in  
19 an engineering discipline recognized by the board and has a  
20 minimum of four years of board-approved engineering experience  
21 subsequent to the awarding of the degree;

22 (d) has obtained a master's degree in an  
23 engineering discipline recognized by the board from a board-  
24 approved program and has a minimum of six years of engineering  
25 experience subsequent to the awarding of the degree; or

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1 (e) has graduated from a board-approved,  
2 four-year engineering curriculum and has a minimum of twelve  
3 [~~or more~~] years of engineering experience [~~acceptable to the~~  
4 ~~board~~] subsequent to the awarding of the degree.

5 B. [~~After the applicant's application is approved~~  
6 ~~by the board, the~~] An applicant shall be allowed to take the  
7 appropriate examination for licensure as a professional  
8 engineer as approved by the board.

9 C. Upon successfully completing the examination,  
10 required experience and all the requirements as noted in this  
11 section, the applicant shall be eligible to be licensed as a  
12 professional engineer upon action of the board.

13 D. An applicant may be licensed by endorsement or  
14 comity if the applicant:

15 (1) [~~he~~] is currently licensed as an engineer  
16 in the District of Columbia, another state, a territory or a  
17 possession of the United States, provided the licensure does  
18 not conflict with the provisions of the Engineering and  
19 Surveying Practice Act and that the standards required by the  
20 licensure or the applicant's qualifications equaled or exceeded  
21 the licensure standards in New Mexico at the time the applicant  
22 was initially licensed; or

23 (2) [~~he~~] is currently licensed as an engineer  
24 in a foreign country and can demonstrate, to the board's  
25 satisfaction, evidence that the licensure was based on

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1 standards that equal or exceed those currently required for  
2 licensure by the Engineering and Surveying Practice Act and can  
3 satisfactorily demonstrate to the board [~~his~~] competence in  
4 current engineering standards and procedures. "

5 Section 8. Section 61-23-17 NMSA 1978 (being Laws 1987,  
6 Chapter 336, Section 17) is amended to read:

7 "61-23-17. APPLICATION AND EXAMINATION FEES. --

8 A. All applicants for licensure pursuant to the  
9 Engineering and Surveying Practice Act shall apply for  
10 examination, registration or certification on forms prescribed  
11 and furnished by the board. Applications shall be accompanied  
12 by the appropriate fee, any sworn statements the board may  
13 require to show the applicant's citizenship and education, a  
14 detailed summary of [~~his~~] the applicant's technical work and  
15 appropriate references.

16 B. All application, reapplication, examination and  
17 reexamination fees shall be set by the board and shall not  
18 exceed the actual cost of carrying out the provisions of the  
19 Engineering and Surveying Practice Act. No fees shall be  
20 refundable.

21 C. Any application may be denied for fraud, deceit,  
22 conviction of a felony or for any crime involving moral  
23 turpitude. "

24 Section 9. Section 61-23-20 NMSA 1978 (being Laws 1987,  
25 Chapter 336, Section 20, as amended) is amended to read:

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1 "61-23-20. ENGINEERING-- LICENSURE AND RENEWAL FEES--

2 EXPIRATIONS. --

3 A. Licensure shall be for a period of two years as  
4 prescribed in the rules of procedure. Initial certificates of  
5 licensure shall be issued [~~to coincide with the biennial~~  
6 ~~period. The initial licensure fee shall be computed~~  
7 ~~proportionately to the amount of time remaining in the biennial~~  
8 ~~licensure period] in accordance with the board's rules.~~

9 B. The board shall establish by rule a biennial fee  
10 for professional engineers. Licensure renewal is accomplished  
11 upon payment of the required fee and satisfactory completion of  
12 the requirements of professional development.

13 C. The executive director of the board shall send a  
14 renewal notice to each licensee's last known address. Notice  
15 shall be mailed at least one month in advance of the date of  
16 expiration of the license.

17 D. Each [~~Licensee's~~] licensee shall have the  
18 responsibility to notify the board of any change of address.

19 E. Upon receipt of a renewal fee and fulfillment of  
20 other requirements, the board shall issue a licensure renewal  
21 card that shall show the name and license number of the  
22 licensee and shall state that the person named has been granted  
23 licensure to practice as a professional engineer for the  
24 biennial period.

25 F. Every license shall automatically expire if not

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1 renewed on or before the last day of the biennial period. A  
2 licensee, however, shall be permitted to reinstate a  
3 certificate without penalty upon payment of the required fee  
4 within sixty days of the last day of the biennial period.  
5 After expiration of this grace period, a delinquent licensee  
6 may renew a certificate by the payment of twice the biennial  
7 renewal fee at any time up to twelve months after the renewal  
8 fee became due. Should the licensee wish to renew an expired  
9 certificate after the twelve-month period has elapsed, ~~he~~ the  
10 licensee shall submit a formal application and fee as provided  
11 in Section 61-23-17 NMSA 1978. The board, in considering the  
12 reapplication, need not question the applicant's qualifications  
13 for licensure unless the qualifications have changed since the  
14 license expired. The board may adopt rules for inactive and  
15 retired status."

16 Section 10. Section 61-23-24 NMSA 1978 (being Laws 1993,  
17 Chapter 218, Section 18, as amended) is amended to read:

18 "61-23-24. ENGINEERING-- VIOLATIONS-- DISCIPLINARY  
19 ACTION-- PENALTIES-- REISSUANCE OF CERTIFICATES. --

20 A. The board may suspend, refuse to renew or revoke  
21 the certificate of licensure, impose a fine not to exceed five  
22 thousand dollars (\$5,000), place on probation for a specific  
23 period of time with specific conditions or reprimand any  
24 professional engineer who is found by the board to have:

- 25 (1) practiced or offered to practice

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1 engineering in New Mexico in violation of the Engineering and  
2 Surveying Practice Act;

3 (2) attempted to use [~~as his own~~] the  
4 certificate of another;

5 (3) given false or forged evidence to the  
6 board or to any board member for obtaining a certificate of  
7 licensure;

8 (4) falsely impersonated any other licensee of  
9 like or different name;

10 (5) attempted to use an expired, suspended or  
11 revoked certificate of licensure;

12 (6) falsely presented himself to be a  
13 professional engineer by claim, sign, advertisement or  
14 letterhead;

15 (7) violated the rules of professional  
16 responsibility for professional engineers adopted and  
17 promulgated by the board;

18 (8) been disciplined in another state for  
19 action that would constitute a violation of either or both the  
20 Engineering and Surveying Practice Act or the rules adopted by  
21 the board;

22 (9) been convicted of a felony; or

23 (10) procured, aided or abetted any violation  
24 of the provisions of the Engineering and Surveying Practice Act  
25 or the rules of the board.

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1           B. Except as provided in Subsection C of Section  
2 61-23-21 NMSA 1978, nothing in the Engineering and Surveying  
3 Practice Act shall prohibit the general use of the word  
4 "engineer", "engineered" or "engineering" so long as such words  
5 are not used in an offer to the public to perform engineering  
6 work as defined in Subsections E and [~~K~~] L of Section 61-23-3  
7 NMSA 1978.

8           C. The board may by rule establish the guidelines  
9 for the disposition of disciplinary cases involving specific  
10 types of violations. The guidelines may include minimum and  
11 maximum fines, periods of probation or conditions of probation  
12 or reissuance of a license.

13           D. Failure to pay any fine levied by the board or  
14 to otherwise comply with an order issued by the board pursuant  
15 to the Uniform Licensing Act is a misdemeanor and shall be  
16 grounds for further action against the licensee by the board  
17 and for judicial sanctions or relief.

18           E. Any person may prefer charges of fraud, deceit,  
19 gross negligence, incompetence or misconduct against any  
20 licensed professional engineer. The charges shall be in  
21 writing and shall be sworn to by the person making the charges  
22 and filed with the executive director of the board. All  
23 charges shall be referred to the engineering committee, acting  
24 for the board. No action that would have any of the effects  
25 specified in Subsection D, E or F of Section 61-1-3 NMSA 1978

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1 may be initiated later than two years after the discovery by  
2 the board, but in no case shall an action be brought more than  
3 ten years after the completion of the conduct that constitutes  
4 the basis for the action. All charges, unless dismissed as  
5 unfounded, trivial, resolved by reprimand or settled  
6 informally, shall be heard in accordance with the provisions of  
7 the Uniform Licensing Act by the engineering committee acting  
8 for the board or by the board.

9 F. Persons making charges shall not be subject to  
10 civil or criminal suits, provided that the charges are made in  
11 good faith and are not frivolous or malicious.

12 G. The board or any board member may initiate  
13 proceedings pursuant to the provisions of this section in  
14 accordance with the provisions of the Uniform Licensing Act.  
15 Nothing in the Engineering and Surveying Practice Act shall  
16 deny the right of appeal from the decision and order of the  
17 board in accordance with the provisions of the Uniform  
18 Licensing Act.

19 H. The board, for reasons it deems sufficient, may  
20 reissue a certificate of licensure to any person whose  
21 certificate has been revoked or suspended, providing a majority  
22 of the members of the engineering committee, acting for the  
23 board, or of the board votes in favor of such reissuance. A  
24 new certificate of licensure bearing the original license  
25 number to replace any certificate revoked, lost, destroyed or

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1 mutilated may be issued subject to the rules of the board with  
2 payment of a fee determined by the board.

3 I. The ~~[board]~~ professional engineering committee  
4 shall prepare and adopt rules of professional responsibility  
5 for professional engineers as provided in the Engineering and  
6 Surveying Practice Act that shall be made known in writing to  
7 every licensee and applicant for licensure pursuant to that act  
8 and shall be published in the roster. Publication and public  
9 notice shall be in accordance with the Uniform Licensing Act.  
10 The ~~[board]~~ professional engineering committee may revise and  
11 amend the rules of professional responsibility for professional  
12 engineers from time to time and shall notify each licensee in  
13 writing of such revisions or amendments.

14 J. A violation of any provision of the Engineering  
15 and Surveying Practice Act is a misdemeanor punishable upon  
16 conviction by a fine of not more than five thousand dollars  
17 (\$5,000) or by imprisonment of no more than one year, or both.

18 K. The attorney general or district attorney of the  
19 proper district or special prosecutor retained by the board  
20 shall prosecute violations of the Engineering and Surveying  
21 Practice Act by a nonlicensee.

22 L. The practice of engineering in violation of the  
23 provisions of the Engineering and Surveying Practice Act shall  
24 be deemed a nuisance and may be restrained and abated by  
25 injunction without bond in an action brought in the name of the

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1 state by the district attorney or on behalf of the board by the  
2 attorney general or the special prosecutor retained by the  
3 board. Action shall be brought in the county ~~[that]~~ where the  
4 violation occurs. "

5 Section 11. Section 61-23-27.4 NMSA 1978 (being Laws  
6 1993, Chapter 218, Section 25, as amended) is amended to read:

7 "61-23-27.4. LICENSURE AS A PROFESSIONAL SURVEYOR--  
8 GENERAL REQUIREMENTS. --

9 A. Licensure as a professional surveyor may be  
10 either through examination or through endorsement or comity.  
11 In either case, an applicant shall file the appropriate  
12 application ~~[where he shall]~~ to demonstrate that [he] the  
13 applicant:

- 14 (1) is of good moral character and reputation;
- 15 (2) is certified as a surveyor intern;
- 16 (3) has at least four years of board- approved  
17 surveying experience if graduated from a four-year, board-  
18 approved surveying curriculum or has a minimum of eight years  
19 of board-approved surveying experience, including the four  
20 years of experience required for surveying intern  
21 certification, if graduated from a four-year, board-approved  
22 related science curriculum; and
- 23 (4) has five references, three of which shall  
24 be from licensed professional surveyors having personal  
25 knowledge of the applicant's surveying experience.

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1           B. The applicant's experience pursuant to Paragraph  
2 (3) of Subsection A of this section shall, at a minimum,  
3 include three years of increasingly responsible experience in  
4 boundary surveying and four years of increasingly responsible  
5 experience under the direct supervision of a licensed  
6 professional surveyor.

7           C. After acceptance of the application by the  
8 board, the applicant shall be allowed to take the appropriate  
9 examination for licensure as a professional surveyor.

10          D. Upon successfully completing the examination,  
11 the applicant shall be eligible to be licensed as a  
12 professional surveyor upon action of the board.

13          E. If otherwise qualified, an applicant may be  
14 licensed if ~~[he]~~ the applicant is currently licensed as a  
15 professional surveyor in:

16               (1) the District of Columbia, another state, a  
17 territory or a possession of the United States, provided that:

18                       (a) licensure does not conflict with the  
19 provisions of the Engineering and Surveying Practice Act and  
20 that the standards required by the licensure or the applicant's  
21 qualifications equaled or exceeded the licensure standards in  
22 New Mexico at the time the applicant was initially licensed;  
23 and

24                       (b) the applicant has passed  
25 examinations the board deems necessary to determine ~~[his]~~ the

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1 applicant's qualifications, including a written examination  
2 that includes questions on laws, procedures and practices  
3 pertaining to surveying in this state; or

4 (2) a foreign country and can demonstrate to  
5 the board's satisfaction:

6 (a) evidence that the licensure was  
7 based on standards that equal or exceed those currently  
8 required for licensure by the Engineering and Surveying  
9 Practice Act; and

10 (b) [~~his~~] competence in current  
11 surveying standards and procedures by passing examinations the  
12 board deems necessary to determine the applicant's  
13 qualification, including a written examination that includes  
14 questions on laws, procedures and practices pertaining to  
15 surveying in New Mexico. "

16 Section 12. Section 61-23-27.7 NMSA 1978 (being Laws  
17 1993, Chapter 218, Section 28, as amended) is amended to read:

18 "61-23-27.7. SURVEYING--LICENSURE AND RENEWAL FEES--  
19 EXPIRATIONS.--

20 A. Licensure shall be for a period of two years as  
21 prescribed in the rules of procedure. Initial certificates of  
22 licensure shall be issued to coincide with the biennial period.  
23 [~~The initial licensure fee shall be computed proportionately to~~  
24 ~~the amount of time remaining in the biennial licensure period.~~]  
25 Initial certificates of licensure shall be issued in accordance

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1 with the board's rules.

2 B. The board shall establish by rule a biennial fee  
3 for professional surveyors. Renewal shall be granted upon  
4 payment of the required fee and satisfactory completion of the  
5 requirements of professional development.

6 C. The executive director of the board shall send a  
7 renewal notice to each licensee's last known address. Notice  
8 shall be mailed at least one month in advance of the date of  
9 expiration of the license.

10 D. It shall be the responsibility of the licensee  
11 to notify the board of any change of address and to maintain  
12 the certificate of licensure current.

13 E. Upon receipt of a renewal fee and fulfillment of  
14 other requirements, the board shall issue a licensure renewal  
15 card that shall show the name and license number of the  
16 licensee and shall state that the person named has been granted  
17 licensure to practice as a professional surveyor for the  
18 biennial period.

19 F. Every certificate of licensure shall  
20 automatically expire if not renewed on or before the last day  
21 of the biennial period. A licensee, however, shall be  
22 permitted to reinstate a certificate without penalty upon  
23 payment of the required fee within sixty days of the last day  
24 of the biennial period. After expiration of this grace period,  
25 a delinquent licensee may renew a certificate by the payment of

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1 twice the biennial renewal fee at any time up to twelve months  
2 after the renewal fee became due. Should the licensee wish to  
3 renew an expired certificate after the twelve-month period has  
4 elapsed, ~~[he]~~ the licensee shall submit a formal application  
5 ~~[and fee]~~ as provided in Section 61-23-27.4 NMSA 1978. The  
6 board, in considering the reapplication, need not question the  
7 applicant's qualifications for licensure unless the  
8 qualifications have changed since the license expired."

9 Section 13. Section 61-23-27.11 NMSA 1978 (being Laws  
10 1993, Chapter 218, Section 32, as amended) is amended to read:

11 "61-23-27.11. SURVEYING-- VIOLATIONS-- DISCIPLINARY  
12 ACTIONS-- PENALTIES-- REISSUANCE OF CERTIFICATES. --

13 A. The board may suspend, refuse to renew or revoke  
14 the certificate of licensure, impose a fine not to exceed five  
15 thousand dollars (\$5,000), place on probation for a specific  
16 period of time with specific conditions or reprimand any  
17 professional surveyor who is found by the board to have:

18 (1) practiced or offered to practice surveying  
19 in New Mexico in violation of the Engineering and Surveying  
20 Practice Act;

21 (2) attempted to use ~~[as his own]~~ the  
22 certificate of another;

23 (3) given false or forged evidence to the  
24 board or to any board member for obtaining a certificate of  
25 licensure;

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1 (4) falsely impersonated any other licensee of  
2 like or different name;

3 (5) attempted to use an expired, suspended or  
4 revoked certificate of licensure;

5 (6) falsely presented himself to be a  
6 professional surveyor by claim, sign, advertisement or  
7 letterhead;

8 (7) violated the rules of professional  
9 responsibility for professional surveyors adopted and  
10 promulgated by the board;

11 (8) been disciplined in another state for  
12 action that would constitute a violation of either or both the  
13 Engineering and Surveying Practice Act or the rules adopted by  
14 the board pursuant to the Engineering and Surveying Practice  
15 Act;

16 (9) been convicted of a felony; or

17 (10) procured, aided or abetted any violation  
18 of the provisions of the Engineering and Surveying Practice Act  
19 or the rules adopted by the board.

20 B. The board may by rule establish the guidelines  
21 for the disposition of disciplinary cases involving specific  
22 types of violations. Guidelines may include minimum and  
23 maximum fines, periods of probation or conditions of probation  
24 or reissuance of a license.

25 C. Failure to pay ~~any~~ a fine levied by the board

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1 or to otherwise comply with an order issued by the board  
2 pursuant to the Uniform Licensing Act is a misdemeanor and  
3 shall be grounds for further action against the licensee by the  
4 board and for judicial sanctions or relief.

5 D. Any person may prefer charges of fraud, deceit,  
6 gross negligence, incompetency or misconduct against any  
7 licensee. Such charges shall be in writing, shall be sworn to  
8 by the person making them and shall be filed with the executive  
9 director of the board. No action that would have any of the  
10 effects specified in Subsection D, E or F of Section 61-1-3  
11 NMSA 1978 may be initiated later than two years after the  
12 discovery by the board, but in no case shall such an action be  
13 brought more than ten years after the completion of the conduct  
14 that constitutes the basis for the action. All charges shall  
15 be referred to the professional surveying committee, acting for  
16 the board, or to the board. All charges, unless dismissed as  
17 unfounded, trivial, resolved by reprimand or settled  
18 informally, shall be heard in accordance with the provisions of  
19 the Uniform Licensing Act by the professional surveying  
20 committee, acting for the board, or by the board.

21 E. Persons making charges shall not be subject to  
22 civil or criminal suits, provided the charges are made in good  
23 faith and are not frivolous or malicious.

24 F. The board or any board member may initiate  
25 proceedings pursuant to the provisions of this section in

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1 accordance with the provisions of the Uniform Licensing Act.  
2 Nothing in the Engineering and Surveying Practice Act shall  
3 deny the right of appeal from the decision and order of the  
4 board in accordance with the provisions of the Uniform  
5 Licensing Act.

6 G. The board, for reasons it deems sufficient, may  
7 reissue a certificate of licensure to any person whose  
8 certificate has been revoked or suspended, provided a majority  
9 of the members of the professional surveying committee, acting  
10 for the board, or of the board votes in favor of reissuance. A  
11 new certificate of licensure bearing the original license  
12 number to replace any certificate revoked, lost, destroyed or  
13 mutilated may be issued subject to the rules of the board with  
14 payment of a fee determined by the board.

15 H. The [~~board~~] professional surveying committee  
16 shall prepare and adopt rules of professional responsibility  
17 for professional surveyors as provided in the Engineering and  
18 Surveying Practice Act that shall be made known in writing to  
19 every licensee and applicant for licensure pursuant to that act  
20 and shall be published in the roster. Such publication and  
21 public notice shall be in accordance with the Uniform Licensing  
22 Act. The [~~board~~] professional surveying committee may revise  
23 and amend these rules of professional responsibility for  
24 professional surveyors from time to time and shall notify each  
25 licensee in writing of the revisions or amendments.

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1 I. A violation of any provision of the Engineering  
2 and Surveying Practice Act is a misdemeanor punishable upon  
3 conviction by a fine of not more than five thousand dollars  
4 (\$5,000) or by imprisonment of no more than one year, or both.

5 J. The attorney general or district attorney of the  
6 proper district or special prosecutor retained by the board  
7 shall prosecute violations of the Engineering and Surveying  
8 Practice Act by a nonlicensee.

9 K. The practice of surveying in violation of the  
10 provisions of the Engineering and Surveying Practice Act shall  
11 be deemed a nuisance and may be restrained and abated by  
12 injunction without bond in an action brought in the name of the  
13 state by the district attorney or on behalf of the board by the  
14 attorney general or the special prosecutor retained by the  
15 board. Action shall be brought in the county in which the  
16 violation occurs. "

17 Section 14. Section 61-23-31.1 NMSA 1978 (being Laws  
18 1993, Chapter 218, Section 38) is amended to read:

19 "61-23-31.1. GOOD SAMARITAN. --

20 A. A professional engineer or professional surveyor  
21 who voluntarily, without compensation, at the request of a  
22 state or local public official acting in an official capacity,  
23 provides aircraft structure, structural, aeronautical,  
24 electrical, mechanical, other engineering services or surveying  
25 at the scene of a declared national, state or local emergency

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1 caused by a major earthquake, hurricane, tornado, fire,  
2 explosion, flood, collapse or other similar disaster or  
3 catastrophic event, such as a terrorist act, shall not be  
4 liable for any personal injury, wrongful death, property damage  
5 or other loss caused by the engineer's or surveyor's acts,  
6 errors or omissions in the performance of any surveying or  
7 engineering services for any structure, building, piping or  
8 other engineered system, publicly or governmentally owned.

9 B. The immunity provided shall apply only to a  
10 voluntary engineering or surveying service that occurs within  
11 thirty days of the emergency, disaster or catastrophic event,  
12 unless extended by an executive order issued by the governor  
13 under the governor's emergency executive powers. Nothing in  
14 this section shall provide immunity for wanton, willful or  
15 intentional misconduct. "